<div align="center">**Remarks**</div>

A.   Pending Claims

Claims 1, 21, 22, and 24-41 have been amended.   Claims 56-61 have been cancelled.
Claims 101-106 are new.   Claims 1, 2, 4-22, 24-42, 44-55, and 100-106 are pending in the case.

B.   35 U.S.C. §101

The Examiner rejected claims 1-2, 4-20, and 100 under 35 U.S.C. § 101 as being directed
to non-statutory subject matter because they are not tied to a machine and do not transform an
article. Applicant disagrees with these rejections. Nevertheless, to expedite prosecution of the
application, Applicant has amended claim 1 to recite features including, but not limited to "the
computer system displaying, in response to receiving the first selection of the first body part, a
first set of input fields for input selection relating to at least one injury for the first body part",
"the computer system displaying a second set of input fields for input selection relating to at least
one injury for the second body part,", "the computer system accessing a contributing factor value
corresponding to at least one of the first insurance code selection and the second insurance code
selection,", and "the computer system estimating a monetary amount for general damages for a
bodily injury insurance claim". Applicant submits that claim 1 is at least tied to another statutory
class (apparatus).

The Examiner rejected claims 21-22 and 24-40 under 35 U.S.C. § 101 as being directed
to non-statutory subject matter. More specifically, the Examiner appears to take the position that
the "storage media" includes signals and is therefore not statutory subject matter. The Examiner
quotes a portion of Applicant's specification that states:

> Suitable <u>carrier</u> media may include storage media or memory media such as magnetic or optical media, e.g., disk or CD-ROM, as well as signals such as electrical, electromagnetic, or digital signals, may be conveyed via a communication medium such as networks 102 and/or 104 and/or a wireless link

Applicant respectfully submits that the reference to a "signals" in the above-quoted portion of Applicant's specification is in reference to <u>carrier</u> media, not storage media. Therefore, the Applicant submits that the quoted portion does not include signals within the meaning of the term "storage media." Nevertheless, to expedite prosecution of the application, Applicant has amended claims 21 and the claims depending therefrom for clarification to recite: "A computer readable <u>physical</u> storage medium comprising program instructions <u>stored thereon</u>." (emphasis added) Applicant submits that amended claim 21 and the claims depending therefrom are directed to statutory subject matter.

For at least the reasons stated above, Applicant respectfully requests removal of the rejections under 35 U.S.C. § 101.

C.   The Claims Are Not Unpatentable Over Zak in View of Burge and in Further View of Dormond Pursuant to 35 U.S.C. § 103(a)

The Examiner rejected claims 1-2, 4-22, 24-42, 44-61 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0004729 to Zak et al. ("Zak") in view of U.S. Patent Publication No. 2003/0200123 to Burge et al. ("Burge") and in further view of U.S. Patent. No. 4,839,822 to Dormond et al. ("Dormond"). Applicant respectfully disagrees with these rejections for at least the following reasons.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner* et al., 379 F.2d 1011, 154 U.S.P.Q. 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, <u>all</u> the claim

limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). (Emphasis added).

Independent Claim 1

Claim 1 has been amended to describe a combination of features including:

> receiving a first insurance code selection, wherein the insurance code specifies a bodily injury to the first body part, wherein the first insurance code is selected by a user;
>
> ...
>
> receiving a second insurance code selection, wherein the insurance code specifies a bodily injury to the second body part, wherein the second insurance code is selected by a user;
>
> ... accessing a contributing factor value corresponding to at least one of the first insurance code selection and the second insurance code selection, wherein the contributing factor value is a numeric value that is proportional to the level of trauma experienced during and after a bodily injury associated with the corresponding insurance code selection; and
>
> ...estimating a monetary amount for general damages for a bodily injury insurance claim, wherein the estimated monetary amount for general damages for the bodily injury insurance claim is based at least in part on the contributing factor value, and wherein the estimated monetary amount for general damages comprises an amount to compensate a claimant for pain and suffering associated with a bodily injury associated with at least one of the first insurance code selection and the second insurance code selection

Support for the amendments to claim 1 may be found in Applicant's specification at least on page 75, line 12 to page 78, line 11 and page 103, line 17 to page 114, line 6. The cited art does not appear to teach or suggest at least the above quoted features of claim 1, in combination with the other features of the claim.

Zak states:

> [0076] FIG. 3 shows a problem form 200 incorporating the invention's "Body GUI" (Body Graphical User Interface) 205 used to document additional patient complaints and exam findings obtained during the history phase of an EMS call. In the body GUI 205 of the problem forms

200, a graphical representation of the human body 210 is shown at the left of the form detail area. By simply touching the display of a particular body part using the pen stylus, the EMT user can easily associate focal patient complaints and exam findings with a particular body region, and "zoom in" to document finer levels of detail in a medical problem. See FIG. 4, which shows the result of selecting the thoracic portion 211 of the body representation 210 in FIG. 3. Dashed lines 222 help the user to identify regions that are selectable, so that the user can zoom in further to the left or right chest, sternum, belly, side, or other marked area. Icons 224 at the bottom of the "Body GUI" allow the user to rotate the image for lateral or posterior views, select right and left body parts (e.g., hands, eyes), or zoom back out to the full body image. The portion of the body being selected appears in text form listed in the Complaint location(s) window 240, and appears as well in a header line at the top of body GUI display 205. The Body GUI is also gender specific based upon the patient's sex as entered on the patient demographics form.

(Zak, page 4, paragraph [0076])

Burge states:

A system and method for using simulation to evaluate the injury claims of individuals involved in motor vehicle accidents. The system uses a computer system configured to accept accident data collected during the insurance claims process, provide an analysis of the impact forces and provide information about the forces and accelerations on body parts of the individuals claiming injuries. By substantially automating the conversion of accident data into occupant dynamics simulation information, injury claims can be cost-effectively analyzed using simulation.

(Burge, Abstract)

and

[0049] FIG. 10 is an exemplary Claimant Specification Form 1005 that enables a user to cause the Data Management System 120 to generate a virtual representation of Claimant 10 by inputting specifications into the form and clicking the Set Button 835. Here, Claimant 10 is shown generated from specifying Gender 1010, Height 1015, Weight 1020 and Age 1025. Software capable of generating a virtual human from these data inputs is known in the art for human and dummy representation, such as the Bodybuilder and Anthropos products by the TecMath corporation and

Mannequin Pro from NexGen Ergonomics. Restraint use for claimant may also be specified, here shown as specifying Seatbelt Use 1030 and Airbag Deployment 1035.
(Burge, page 3, paragraph [0049])

Dormond states:

An expert system which provides one or more suggested treatments for a patient with physical trauma is disclosed. The system includes a computing device having a memory, a plurality of data bases in the memory, an application program and an inference engine program. The data bases include graphical illustrations of different types of physical trauma, and a knowledge base which contains treatment information. The application program is executed in the computing device and interactively displays a series of screens including at least some of the graphical illustrations, to elicit responses from the user concerning the specific types of physical trauma and specific characteristics of the patient. The inference engine program, which is also executed in the computing device, uses the knowledge base and information related to the responses elicited from the user, for selecting one or more suggested treatments. The application program presents the suggested treatments to the user after execution of the inference engine program.
(Dormond, Abstract)

Zak discloses an interface used to document patient complaints. A graphical representation of the human body is depicted to the side of a detail area. By selecting a body portion of the representation, the user can associate complaints and findings with a particular body region. As depicted in FIGS. 3 and 4 of Zak, selecting a body portion of the representation may cause the body representation to change. Burge discloses a system and method for using simulation to evaluate the injury claims of individuals involved in motor vehicle accidents. The system disclosed in Burge provides an analysis of the impact forces and information about the forces and accelerations on body parts of the individuals claiming injuries. Burge further discloses a form that enables inputting specifications that can be used to generate a "virtual human" used in the analysis. Dormond discloses an expert system that provides suggested treatments for a patient with physical trauma that interactively displays a series of screens including graphical illustrations to elicit responses from a user concerning the specific types of physical trauma and specific characteristics of the patient. Zak, Burge, and Dormond, whether considered separately

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or in combination with one another, do not appear to teach or suggest receiving a first insurance code selection, wherein the insurance code specifies a bodily injury to a first body part, receiving a second insurance code selection, wherein the insurance code specifies a bodily injury to a second body part, accessing a contributing factor value corresponding to at least one of the first insurance code selection and the second insurance code selection, wherein the contributing factor value is a numeric value that is proportional to the level of trauma experienced during and after a bodily injury associated with the corresponding insurance code selection; and estimating a monetary amount for general damages for a bodily injury insurance claim, wherein the estimated monetary amount for general damages for the bodily injury insurance claim is based at least in part on the contributing factor value, and wherein the estimated monetary amount for general damages comprises an amount to compensate a claimant for pain and suffering associated with a bodily injury associated with at least one of the first insurance code selection and the second insurance code selection, in combination with the other features of claim 1.   For at least these reasons, Applicant respectfully submits that claim 1 is allowable over the cited art.

Independent Claim 21

Amended claim 21 recites a combination of features including:

> receiving a first insurance code selection, wherein the insurance code
>> specifies a bodily injury to the first body part, wherein the first
>> insurance code is selected by a user;
>
> ...
> receiving a second insurance code selection, wherein the insurance code
>> specifies a bodily injury to the second body part, wherein the second
>> insurance code is selected by a user;
> accessing a contributing factor value corresponding to at least one of the first
>> insurance code selection and the second insurance code selection, wherein
>> the contributing factor value is a numeric value that is proportional to the
>> level of trauma experienced during and after a bodily injury associated with
>> the corresponding insurance code selection; and
> estimating a monetary amount for general damages for a bodily injury insurance
>> claim, wherein the estimated monetary amount for general damages for the
>> bodily injury insurance claim is based at least in part on the contributing

factor value, and wherein the estimated monetary amount for general
damages comprises an amount to compensate a claimant for pain and
suffering associated with a bodily injury associated with at least one of the
first insurance code selection and the second insurance code selection

For at least the reasons discussed above with respect to claim 1, Applicant submits that
claim 21 is allowable over the cited art.

Independent Claim 41

Amended claim 41 recites a combination of features including:

receiving a first insurance code selection, wherein the insurance code
specifies a bodily injury to the first body part, wherein the first
insurance code is selected by a user;
...
receiving a second insurance code selection, wherein the insurance code
specifies a bodily injury to the second body part, wherein the second
insurance code is selected by a user;
accessing a contributing factor value corresponding to at least one of the first
insurance code selection and the second insurance code selection, wherein
the contributing factor value is a numeric value that is proportional to the
level of trauma experienced during and after a bodily injury associated with
the corresponding insurance code selection; and
estimating a monetary amount for general damages for a bodily injury insurance
claim, wherein the estimated monetary amount for general damages for the
bodily injury insurance claim is based at least in part on the contributing
factor value, and wherein the estimated monetary amount for general
damages comprises an amount to compensate a claimant for pain and
suffering associated with a bodily injury associated with at least one of the
first insurance code selection and the second insurance code selection

For at least the reasons discussed above with respect to claim 1, Applicant submits that
claim 41 is allowable over the cited art.

Dependent Claims 4, 24 and 44

In addition to being allowable over the cited art based on the features recited by each of
the independent claims, Applicant submits that dependent claims 4, 24 and 44 are allowable for

the additional features recited in the respective claims. For instance, the cited art fails to teach or suggest at least the feature including, "wherein the listing of at least one injury for at least one subpart appears in response to selecting the subpart from the listing of at least one subpart," in combination with other features recited by dependent claims 4, 24, and 44. In the Office Action, the Examiner cites FIG. 4 and paragraph [0076] of Zak as disclosing the features recited in claims 4, 24, and 44. The cited portion of Zak appears to disclose a static listing of injuries that are continuously displayed. Selecting the injury associates an injury with the complaint location that is identified at the time (e.g., "Chest" as depicted in FIG. 4 of Zak). The listing of injuries disclosed by Zak is thus continuously visible. Zak does not appear to teach or suggest that a listing for a subpart appears in response to selecting the subpart from a listing, in combination with other features recited by claims 4, 24 and 44.

For at least these reasons, Applicant submits that claims 4, 24 and 44 are allowable over the cited art.

Dependent Claims 7, 27 and 47

In addition to being allowable over the cited art based on the features recited by each of the independent claims, Applicant submits that dependent claims 7, 27, and 47 are allowable for the additional features recited in the respective claims. For instance, the cited art fails to teach or suggest at least the feature including, "wherein a listing of at least one treatment appears when an injury is selected from a listing of at least one injury," in combination with other features recited by dependent claims 7, 27, and 47. In the Office Action, the Examiner cites FIG. 9 and paragraph [0087] of Zak as disclosing the features recited in claims 7, 27, and 47. Zak appears to disclose a treatment form used to document treatments previously given by EMS providers. *See* Zak, para. [0085]. FIG. 9 depicts a separate form including treatments. Zak does not appear to teach or suggest that a listing of at least one treatment appears when an injury is selected, in combination with other features recited by claims 7, 27, and 47.

For at least these reasons, Applicant submits that claims 7, 27, and 47 are allowable over the cited art.

Dependent Claims 10, 30 and 50

In addition to being allowable over the cited art based on the features recited by each of the independent claims, Applicant submits that dependent claims 10, 30, and 50 are allowable for the additional features recited in the respective claims. For instance, the cited art fails to teach or suggest at least the feature including, "distinguishing the body part selected from unselected body parts by at least one of highlighting, outlining, and circling the selected body part," in combination with other features recited by dependent claims 10, 30, and 50. In the Office Action, the Examiner cites FIG. 3 of Zak as disclosing the features recited in claims 10, 30, and 50. The Examiner also states: "Examiner does not agree with Applicants narrow interpretation of the claim language for dependent claims 10, 30, and 50. Fig. 3 clearly shows distinguishing the body part selected by at least one of highlighting, outlining, and circling the selected body part." (Office Action, page 10). FIG. 3 of Zak depicts several segmented body parts. Zak, however, does not appear to distinguish one body part from another or depict any form of highlighting, outlining or circling of a selected body part. Accordingly, Zak does not appear to teach or suggest distinguishing the body part selected from unselected body parts by at least one of highlighting, outlining, and circling the selected body part, in combination with other features recited by claims 10, 30, and 50.

For at least these reasons, Applicant submits that claims 10, 30, and 50 are allowable over the cited art.

Dependent Claims 18 and 38

In addition to being allowable over the cited art based on the features recited by each of the independent claims, Applicant submits that dependent claims 18 and 38 are allowable for the additional features recited in the respective claims. For instance, the cited art fails to teach or suggest at least the feature including, "displaying an indicator next to a listing of a received input selection to indicate whether the input selection should be considered in a respective insurance claim," in combination with other features recited by dependent claims 18, 38, and 58. In the Office Action, the Examiner cites elements 241-243 of FIG. 2 of Zak as disclosing the features recited in claims 18, 38, and 58. FIG. 2 of Zak depicts three icons used for entry and removal of certain complaints. Zak states:

> The invention uses quick-entry icons to accomplish frequently-performed tasks with a single movement. The forms in FIGS. 2, 3, and 4 show the use of "+", "x", and "-" icons 243. Using the "+" icon adds the currently-designated complaint (or finding) to the complaint list. Using the "x" icon clears the currently-designated complaint and cancels the associated changes. Using the "-" icon deletes a complaint from the complaint list. (Zak, para. [0079])

Accordingly, the icons 241-243 are used for entry or removal of data. The icons do not appear to be indicative of any of characteristics of the displayed data. The Examiner also states: "As to Applicant arguments to dependent claims 4, 24, and 44, entry and/or removal of a complaint is a clear indication of whether the input selection should be considered." Applicant submits that such an interpretation does not give deference to all of the claimed elements, including the features of "displaying an indicator." Accordingly, Zak does not appear to teach or suggest an indicator next to a listing of received input selection to indicate whether the input selection should be considered in a respective insurance claim, in combination with the other features recited by claims 18 and 38.

For at least these reasons, Applicant submits that claims 18 and 38 are allowable over the cited art.

D. **New Claims**

New claim 101 recites a combination of features including, but not limited to: "wherein at least one of the first insurance code selection and the second insurance code selection is an injury code, wherein the contributing factor value for the injury code has a positive value, the method further comprising: accessing at least one contributing factor value corresponding to a treatment code for a treatment for the bodily injury, wherein the contributing factor value corresponding to the treatment code has a negative value, wherein estimating the monetary amount for general damages for the bodily injury insurance claim comprises combining the contributing factor value having a positive value corresponding to the injury code with at least the contributing factor value having a negative value corresponding to the treatment code, wherein the contributing factor value corresponding to the injury code results in an increase in the estimated monetary amount for general damages for the bodily injury insurance claim, wherein the contributing factor value corresponding to the treatment code results in a decrease in the estimated monetary amount for general damages for the bodily injury insurance claim." The cited art does not appear to teach or suggest at least this feature, in combination with the other features of the claim.

New claim 102 recites a combination of features including, but not limited to: "wherein the estimated monetary amount for general damages is based on the contributing factor value and at least one regional factor." The cited art does not appear to teach or suggest at least this feature, in combination with the other features of the claim.

New claim 103 recites a combination of features including, but not limited to: "wherein the estimated monetary amount for general damages is based on the contributing factor value and cost of living." The cited art does not appear to teach or suggest at least this feature, in combination with the other features of the claim.

New claim 104 recites a combination of features including, but not limited to: "sorting the contributing factor value corresponding to the at least one insurance code selection with contributing factor values for one or more other insurance codes related to the bodily injury insurance claim; and displaying a set of insurance codes corresponding to sorted contributing factor values; wherein each positive contributing factor value of the sorted contributing factor values increases the value of the estimated monetary amount for general damages for the bodily injury insurance claim; and wherein each negative contributing factor value of the sorted contributing factor values decreases the value of the estimated monetary amount for general damages for the bodily injury insurance claim." The cited art does not appear to teach or suggest at least this feature, in combination with the other features of the claim.

New claim 105 recites a combination of features including, but not limited to: "determining one or more contributing factor values as a function of one or more business rules; and calculating dynamically an amount that each insurance code adds or subtracts from the estimated monetary amount for general damages for the bodily injury insurance claim." The cited art does not appear to teach or suggest at least this feature, in combination with the other features of the claim.
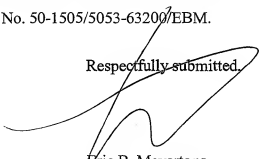
New claim 106 recites a combination of features including, but not limited to: "calculating dynamically an amount that each insurance code adds or subtracts from the estimated monetary amount for general damages for the bodily injury insurance claim, wherein the amount contributed by at least one of the insurance codes related to the bodily injury insurance claim is dependent on an amount contributed by at least one other of the insurance codes related to the bodily injury insurance claim." The cited art does not appear to teach or suggest at least this feature, in combination with the other features of the claim.

E.   Additional Remarks

Based on the above, Applicant submits that all of the claims are in condition for allowance. Favorable reconsideration is respectfully solicited.

If an extension of time is required, Applicant hereby requests the appropriate extension of time. If any fees are required, please appropriately charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel Deposit Account No. 50-1505/5053-63200/EBM.

Respectfully submitted,

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